

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNARD ROSS HANSEN,

Defendant.

NO. CR18-092RAJ

**GOVERNMENT’S SENTENCING
MEMORANDUM**

Ross Hansen was convicted by a jury of committing a massive fraud that stole money and property from more than 3000 customers from across the country. For years, Mr. Hansen lied repeatedly to Northwest Territorial Mint customers to cause them to give him money and precious metal. These customers wanted a safe investment but instead were forced into a multimillion-dollar Ponzi scheme that collapsed in 2016. These lies were more than just a “flawed business model” – they caused lasting damage and the loss of more than \$30 million in unfulfilled orders and stolen stored bullion. Ross Hansen has refused to take responsibility for this damage. Given the magnitude of the crime, the impact on the victims, Mr. Hansen’s lack of respect for the law, to protect the public, and to provide just punishment for this crime, the Court should sentence Ross Hansen to 15 years’ imprisonment.

1 **I. FACTUAL BACKGROUND¹**

2 **A. Hansen founds NWTM, files for bankruptcy, and goes to federal prison**

3 In the 1980s, Defendant Ross Hansen founded a coin store and later a silver-
4 minting company called Northwest Territorial Mint (NWTM) in Auburn, Washington.
5 See Trial Exhibit 262 (Storage Invoice with NWTM insignia “est. 1984”). The
6 government is not aware of any support, beyond his own claims, for Mr. Hansen’s work
7 history as described in paragraphs 81-85 of the Hansen PSR.

8 After founding NWTM, Mr. Hansen was twice convicted of federal crimes. In
9 1987, Mr. Hansen was convicted of selling unregistered firearms and sentenced to 90
10 days of custody. In 1991, Mr. Hansen was convicted of various money laundering and
11 financial reporting offenses related to NWTM. In the 1990 case, Mr. Hansen was
12 sentenced to 30 months in custody. See Hansen PSR at ¶ 70.

13 In 1989, prior to his second criminal conviction, Mr. Hansen filed for bankruptcy
14 in this district. See *In re Ross B. Hansen, et al., Debtors*, No. 89-08769TTG. Some of
15 the creditors in that bankruptcy were individuals who had purchased precious metal
16 which was “on deposit” with NWTM and Hansen. At the time of bankruptcy, according
17 to a pleading supporting the appointment of a trustee, more than half of the precious
18 metal that was supposed to be on deposit with Hansen was missing – some of these
19 bullion creditors were never paid. See Memo in Support of Appointment of Trustee,
20 M.S. Interview Memo (Sentencing Exhibit 604, Sentencing Exhibit 605). Mr. Hansen
21 eventually was allowed to purchase the assets of the NWTM business from the
22 bankruptcy estate. See *In re Ross B. Hansen, et al., Debtors*, No. 89-08769TTG, Dkt.
23 #151; compare PSR at ¶ 87.

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27 ¹ The Factual Background section of this memorandum is based on certain sections of the Presentence
28 Report (PSR), Trial Exhibits, and counsel’s recollection of the evidence at trial.

1 **B. Hansen expands NWTM and signs Consent Decree with AGO**

2 By the 2000s, Mr. Hansen operated NWTM from a manufacturing facility in
 3 Auburn. NWTM both produced and sold bullion, and also offered, for a fee, “secure” on-
 4 site storage for its bullion customers in its Auburn vault. Also in the 2000s, co-defendant
 5 Diane Erdmann began working for NWTM as the vault manager. In this role, Ms.
 6 Erdmann was responsible for order fulfillment, determining what bullion products would
 7 be made and in what order the products would be shipped.

8 By the 2000s, Hansen was already defrauding his bullion customers by lying to
 9 them about when their orders would be delivered. At trial, Mr. Hansen’s former
 10 receptionist, Diane Hopkins, testified that when bullion customers called about their
 11 orders, Hansen told her to tell them their orders would be ready in “two weeks.” Ms.
 12 Hopkins knew that this was a lie. Mr. Hansen was also defrauding his storage customers.
 13 Diane Hopkins testified that, even in the Auburn vault in those early years, Mr. Hansen
 14 and Ms. Erdmann were using—in other words, stealing—storage customers’ supposedly
 15 safe and secure bullion to fulfill other orders.

16 In 2008, the Washington Attorney General’s Office (AGO) filed a Consumer
 17 Protection complaint against NWTM and Mr. Hansen and accused them of unfair
 18 business practices, including misrepresenting bullion delivery dates. Later that year, the
 19 parties settled the case and Hansen signed a Consent Decree. Trial Exhibit 4.

20 The Consent Decree controlled how NWTM did business and required
 21 Hansen/NWTM: 1) to tell bullion customers a specific delivery date, based on the
 22 average number of days it had taken NWTM to deliver similar goods in the past; 2) to
 23 timely notify the bullion customer when NWTM learned it could not meet that delivery
 24 date; and 3) to ship bullion within 30 additional days of the delivery date. If the product
 25 was not shipped, the Consent Decree required NWTM to provide the bullion customer an
 26 immediate refund. Critically, beyond these specifics, the Consent Decree broadly
 27 prohibited Hansen from lying to customers about key parts of the sales transaction, i.e.,
 28 delivery dates, delivery status, refunds, and availability of goods. Trial Exhibit 4 at 009.

1 **C. Despite AGO warning, Hansen continues to expand business through**
 2 **fraud to his bullion customers**

3 The evidence at trial focused on NWTM bullion sales from 2009 to 2016, when
 4 Mr. Hansen moved NWTM's manufacturing operations to Nevada and its offices to
 5 Federal Way. The evidence showed that the court-ordered Consent Decree was not
 6 followed, but rather Mr. Hansen systematically caused NWTM employees to lie about
 7 those same critical parts of the sales transaction listed in the Consent Decree – 1) delivery
 8 dates, 2) delivery status, and 3) refunds.

9 First, Hansen caused sales representatives to lie about the promised bullion
 10 delivery dates. Former sales employees testified that Mr. Hansen required them to tell
 11 bullion customers that bullion orders would be delivered in 8 to 10 weeks. Mr. Hansen
 12 knew that was a lie; orders were consistently filled weeks if not months beyond that time
 13 frame. Defendants' employees knew this was a lie, too, but when they asked Hansen to
 14 change the timeline he refused because he believed NWTM would lose bullion customers
 15 if they told customers the truth. Some of those same employees testified that they
 16 believed they would be disciplined or fired if they refused to tell the lies Hansen directed.

17 Second, Mr. Hansen, Ms. Erdmann, and employees at their direction all lied to
 18 customers about delivery status. At the 10-week deadline, Hansen caused his employees
 19 to send a form email telling bullion customers that their bullion order would be delayed
 20 because of "unprecedented number of orders." *See, e.g.*, Trial Exhibit 200. These emails
 21 were more lies because delays were not unprecedented but routine. Again, employees
 22 suggested that Mr. Hansen change the language, but he refused.

23 Finally, Mr. Hansen lied about the availability of refunds. When bullion
 24 customers requested refunds, Mr. Hansen had his employees try to keep the scheme
 25 going by promising customers more bullion (that could not be delivered), lying that
 26 customer refund checks took four to six weeks to process, and backdating refund checks
 27 to cover up the fraud. Customers were angry when their requests for refunds were stalled
 28 – because NWTM's sales pitch had misled bullion customers into believing their money

1 would be used to purchase their orders—and several victims testified to their confusion
2 about why their money could not simply be sent back if their metal had not yet been
3 bought. The evidence at trial showed that bullion customer money was not designated
4 for a particular order but commingled and used to pay company expenses, to pay
5 Defendants, and to buy precious metal to fill older customer orders. In this way, the
6 evidence showed that Hansen ran the NWTM bullion business like a Ponzi scheme
7 dependent on new customer money to fulfill promises to old customers.

8 Mr. Hansen greatly expanded NWTM in the years following the Consent Decree.
9 In 2009, he acquired Medallion Arts in Nevada; in 2011, he acquired Graco Awards in
10 Texas; and in 2015, he acquired the Honolulu Mint in Hawaii. These purchases were
11 financed solely with money that was supposed to be used to fulfill customer orders.

12 **D. Hansen and Erdmann steal from storage customers to hide their fraud**

13 After the 2008 Consent Decree, as NWTM took in more and more money, and
14 accordingly more and more customer obligations, Mr. Hansen was able to cover up his
15 lies and fraud by stealing from his storage customers. The storage program promised
16 customers that NWTM would safely store their bullion in NWTM's vaults. Defendants
17 labeled customer-owned bullion with the name of particular storage customer. *See, e.g.*,
18 Trial Exhibit 400a (hearing testimony of Ross Hansen).

19 The evidence at trial showed that Defendants stole the storage customers' bullion
20 outright. Multiple former employees testified that, at the direction of Ms. Erdmann and
21 Mr. Hansen, and usually to fulfill other bullion orders, employees repeatedly removed
22 customer-owned bullion from the vaults. The employees knew it belonged to the storage
23 customers because it was labeled. This practice happened when the vault was in Auburn
24 and when the vault was in Nevada. While Ms. Erdmann tried to disguise this theft and
25 called it "borrowing," employees observed that stored metals were not replaced.
26 Hansen's employees inventoried the vaults in April 2016 and learned that \$4.9 million
27 worth of customer stored metal was missing. *See* Trial Exhibit 493.

1 **E. Hansen files bankruptcy for NWTM while owing customers millions**

2 Despite the Consent Decree, Mr. Hansen operated NWTM as a Ponzi scheme for
 3 years. He prevented most NWTM employees from learning about how much he owed
 4 customers by refusing to file tax returns and by preventing employees from conducting a
 5 vault inventory. Mr. Hansen's fraud came to a head in October 2015, when NWTM
 6 general counsel Greg Fullington warned him that he was running a Ponzi scheme and
 7 needed to stop taking new bullion orders and inventory the vault. But Mr. Hansen
 8 refused to stop – instead he continued to take orders he knew could not be delivered into
 9 2016.

10 In April 2016, after losing a defamation lawsuit and while owing millions to his
 11 customers, Mr. Hansen filed for bankruptcy. At the time Hansen filed for bankruptcy, he
 12 knew NWTM could not possibly pay its bullion customers (like his 1989 bankruptcy).
 13 Hansen knew there were millions in unfulfilled bullion orders (*see* Trial Exhibit 60); he
 14 knew there were millions in unfunded refunds (*see* Trial Exhibit 57 at 014, Trial Exhibit
 15 86); he knew that he and Ms. Erdmann had stolen most of the customer storage; and he
 16 knew the company had a true balance of about \$20,000 in the bank (Trial Exhibit 57 at
 17 001).

18 Mr. Hansen tried to use the bankruptcy process to keep long-term control of
 19 NWTM, just like in his 1989 bankruptcy. After Mr. Hansen filed bankruptcy in April
 20 2016, he first attempted to have his own chief restructuring officer appointed. *See In Re*
 21 *Northwest Territorial Mint LLC*, No. 16-11767CMA, Dkt. #12. When the bankruptcy
 22 court appointed a trustee instead, Hansen tried to keep control of the business by paying
 23 bankruptcy lawyers to file lawsuits against the trustee. *See Medallic Art Co. v. Calvert*,
 24 16-C-1895-JCC. Mr. Hansen directed hundreds of thousands of dollars worth of gold
 25 and silver to paying these lawyers. *See* Trial Exhibits 384, 385, 386, 387, 388; *see also*
 26 PSR at ¶46.

F. Hansen and Erdmann are convicted of defrauding the bullion and storage customers of NWTM

In April 2018, the Grand Jury returned an Indictment charging Defendants with mail and wire fraud for their scheme to defraud NWTM customers of their money or their property. Dkt. #1. The Indictment charged Defendants with defrauding NWTM's bullion customers, NWTM's storage customers, and NWTM's lease customers. Dkt. #1.

The case proceeded to trial in July 2021. On July 30, 2021, the jury returned a verdict finding Mr. Hansen guilty on 14 of 15 counts. Dkt. #353. Mr. Hansen was convicted of all nine counts related to bullion customers, all five counts related to storage customers, and was acquitted on the one count related to lease customers.

II. DEFENDANT'S GUIDELINE OBJECTIONS

The government has no objections to the offense level as calculated by the PSR.² Mr. Hansen objected to the PSR's guideline calculations as to: A) the loss amount, B) the adjustment for substantial financial hardship to 25 or more victims; and C) the enhancement for violating a court order.

A. Government's response to defense objection: loss amount³

For purposes of the sentencing guidelines, a court need only make a reasonable estimation of the loss. *See United States v. Tadios*, 822 F.3d 501, 503 (9th Cir. 2018). Sentencing guideline enhancements must ordinarily be proved by the government by a preponderance of the evidence. *United States v. Garro*, 517 F.3d 1163, 1168-69 (9th Cir. 2008) (approving of preponderance standard for loss calculation because defendant was

² The PSR used the 2018 Sentencing Guideline Manual but noted that the 2014 and 2015 Guideline Manuals would have reached the same result. PSR ¶52.

³ Defendant Erdmann objected to the 22-level enhancement and argued that an 18-level enhancement is proper based on the amount of loss from the counts of conviction (a loss of greater than \$3.5 million is an 18-level increase per USSG §2B1.1(b)(1)(J). However, this loss calculation does not include the entire scheme for which Hansen and Erdmann were convicted. *See United States v. Treadwell*, 538 F.3d 990, 1001 (9th Cir. 2010), *rev'd on other grounds by United States v. Miller*, 953 F.3d 1095 (9th Cir. 2020).

convicted of charged scheme). The guidelines instruct that relevant conduct is included in the loss calculation; when the loss amount is the result of jointly undertaken criminal activity, such as a scheme or conspiracy, the loss is based on the foreseeable acts and omissions of other within the scope of the jointly undertaken criminal activity. *See* USSG § 1B1.3(a)(1)(B); *Treadwell*, 538 F.3d at 1002.

The PSR calculated the loss amount as greater than \$25 million. PSR at ¶ 56, *citing* USSG § 2B1.1(b)(1)(L). That is a reasonable estimate of the loss and it is supported by the evidence at trial. Defendants defrauded bullion customer and storage customers when they were wrongfully deprived of their money or their property through the fraud.⁴ Using conservative numbers from admitted trial exhibits, this evidence shows a loss of approximately \$31.4 million, as shown in the below table:

| <u>Trial Exhibit</u> | <u>Loss Amount</u> |
|--|---------------------------|
| Exhibits 60, 542 – filtered NWTM records of unfulfilled bullion orders | Approx. \$22 million |
| Exhibit 86 – outstanding refunds | Approx. \$3 million |
| Exhibit 192 – S.F. receipt for bullion exchange | Approx. \$1.5 million |
| Exhibit 493 – missing stored bullion | Approx. \$4.9 million |
| | |
| TOTAL | Approx. \$31.4 million |

A detailed list of victims and amounts for restitution is filed in separate exhibits and discussed below. The Court may also rely on this restitution evidence when determining the loss amount.

⁴ Mr. Hansen cannot remove “losses from customers whose orders had not shipped” when the Trustee took over. Mr. Hansen took bullion customer orders and storage customers’ metals under false pretenses and then filed bankruptcy when the company had little money left. *See, e.g.*, Trial Exhibit 57. Mr. Hansen similarly tried to blame the Trustee at trial; the jury rejected this defense.

1 A loss amount exceeding \$25 million is consistent with other evidence. Mr.
 2 Hansen himself testified in the bankruptcy case that there were \$25 million worth of
 3 “unpaid customers” due to his management of NWTM. Trial Exhibit 403a. The initial
 4 2016 bankruptcy filing – when Mr. Hansen was in control of the company – indicated
 5 that the liabilities of the business were between \$10 and \$50 million. *In re Northwest*
 6 *Territorial Mint LLC*, No. 16-11767CMA, Dkt. #1.

7 **B. Government’s response to defense objection: substantial financial**
 8 **hardship to 25 or more victims**

9 Guideline 2B1.1 applies different enhancements in fraud cases based on the
 10 number of victims and the financial impact to those victims. USSG § 2B1.1(b)(2)(A)-
 11 (C). Subsection A applies a two-level increase when the offense involves 10 or more
 12 victims, which was clearly established when the jury found Mr. Hansen guilty on 14
 13 counts. Subsections B or C apply a four or a six-level increase, if the offense resulted in
 14 substantial financial hardship to five or 25 victims, respectively. To find that victims
 15 suffered a “substantial financial hardship” the Court must determine “whether the victims
 16 suffered a loss that was significant in light of their individual financial circumstances.”
 17 *United States v. George*, 949 F.3d 1181, 1184 (9th Cir. 2020). The sentencing guidelines
 18 commentary directs the Court to consider, among other things, whether the offense
 19 resulted in a victim “suffering substantial loss of a retirement, education, or other savings
 20 or investment fund [or] making substantial changes to his or her employment, such as
 21 postponing his or her retirement plans.” *George*, 949 F.3d at 1185, *citing* U.S.S.G. §
 22 2B1.1 cmt. n.4(F).

23 The victim testimony at trial and the hundreds of victim impact statements
 24 demonstrated that the offense caused substantial hardship to more than 25 victims.
 25 Indeed, the victim impact statements showed dozens of victims meeting that bar. *See*
 26 *United States v. Bates*, 784 Fed.Appx. 312, 334 (6th Cir. 2019) (court reviewed victim
 27 impact statements to assess victim’s financial circumstances to determine whether those
 28 circumstances qualified as substantial financial hardship). More than 35 victims stated

1 how they lost a substantial portion of their retirement or investment savings. *See*
 2 VIS_001, 004, 005, 007, 009, 030, 032, 036, 040, 050, 060, 070, 072, 089, 095, 099, 111,
 3 169, 199, 217, 249, 253, 276, 404, 461, 462, 468, 479, 487, 494, 495, 498, 511, 519, 560,
 4 562, 677, 685, 705. Other victims stated how they had to delay retirement. *See* VIS_062,
 5 181, 191, 278, 288, 353, 395, 418, 500. Still other victims explained how the loss
 6 impacted their own or their family's living arrangements. *See* VIS_015, 017, 229, 348.
 7 Of course, there are thousands more victims who did not submit an impact statement and
 8 so the number of victims that suffered a substantial financial hardship is likely much
 9 higher, but in any event multiples beyond the 25 required by the guidelines.

10 Although a victim's financial circumstances should be evaluated individually, the
 11 evidence admitted at trial showed substantial losses. The evidence showed that more
 12 than 25 customers each lost over \$100,000. *See* Trial Exhibit 493 (storage losses); Trial
 13 Exhibit 162 (S.F. bullion exchange); and Trial Exhibit 60 (NWTM records of unfulfilled
 14 bullion orders).

15 Based on the evidence submitted by the victims and the evidence at trial, the
 16 government has shown that more than 25 victims suffered a substantial financial hardship
 17 and a six-level increase is appropriate. PSR at ¶57.

18 **C. Government's response to defense objection: violation of a specific prior**
 19 **judicial order**

20 Probation properly found that Mr. Hansen's offenses qualified for a two-level
 21 enhancement for violation of a specific prior judicial order, that is, violating the Consent
 22 Decree. PSR at ¶58, citing USSG §2B1.1(b)(9)(C). In response to Mr. Hansen's
 23 objections, the PSR noted that Mr. Hansen caused NWTM employees to delay and deter
 24 refunds, contrary to the Consent Decree's requirements.

25 In addition, the evidence at trial demonstrated other ways that Mr. Hansen violated
 26 the Consent Decree. The Consent Decree required that NWTM provide "timely notice"
 27 that it would be unable to meet the shipping deadline (Trial Ex. 4 at 004), but the
 28 evidence showed that Mr. Hansen caused last-minute emails to be sent out. The Consent

Decree required that NWTM tell its customers a specified number of days that it would ship based on the average number of days it took defendants to deliver similar goods over the past year. Trial Exhibit 4 at 004. Instead, Mr. Hansen consistently required his sales employees to tell customers “8 to 10 weeks” because he thought a realistic timeframe would cost sales. Finally, the Consent Decree prohibited “any misrepresentations” in the context of NWTM’s business activities. Trial Exhibit 4 at 009. As shown at trial, and as found by the jury, Mr. Hansen repeatedly lied to his customers during every step of the transaction process.

D. Leadership enhancement

The final PSR included a leadership enhancement for Mr. Hansen because he was the organizer and leader of criminal activity that was otherwise extensive. PSR at ¶61, citing USSG 3B1.1(a). This enhancement is proper based on the evidence admitted at trial. The scheme to defraud NWTM customers was “extensive” as that term is defined by the commentary and the case law. The Ninth Circuit has held that “otherwise extensive” is determined by such factors as 1) the number of knowing participants and unwitting outsiders; 2) the number of victims; and 3) the amount of money fraudulently obtained. *United States v. Rose*, 20 F.3d 367, 374 (9th Cir. 1994). All of these factors support the enhancement here. First, the company employed hundreds of workers across multiple states. Several of these workers were involved in the fraud by making representations to customers at Defendants’ direction and by removing customer-owned metals from storage; many were not knowingly involved in the scheme. Second, there were more than 3000 victims across the United States and in other countries. See *United States v. Booth*, 309 F.3d 566, 577 (9th Cir. 2002) (upholding district court’s application of enhancement based on geographical reach of scheme). Finally, the scheme involved tens of millions of dollars over multiple years – the loss is more than \$30 million.

The evidence showed that Mr. Hansen was the leader of the scheme. He had control over every aspect of the NWTM business. He directed what representations were to be made to bullion customers. On multiple occasions he directed the use of storage

1 customers' bullion to fulfill other orders and covered up the theft by refusing to allow an
2 inventory. He was the leader and deserves a four-level enhancement.

3 **III. GOVERNMENT'S SENTENCING RECOMMENDATION**

4 The government recommends that Mr. Hansen be sentenced to 15 years'
5 imprisonment. This sentence is warranted by the devastation caused by Mr. Hansen's
6 crimes to more than 3000 victims. A lengthy sentence is especially appropriate for Mr.
7 Hansen, who was warned about the harm he was causing but who has never accepted
8 responsibility. A 15-year sentence sends a message to the public that the Court
9 recognizes the harm caused by Mr. Hansen and it is consistent with other similarly
10 situated defendants.

11 **A. Ross Hansen stole the victims' savings.**

12 Ross Hansen cheated more than 3000 victims out of their money and property. As
13 seen in the victim testimony at trial, and in the victim impact statements, most of the
14 victims invested in bullion because they believed it was safe investment. They wanted
15 their money to be used to purchase their gold and silver bars. They wanted to take
16 possession of this gold and silver and have it increase in value over time.

17 The victims in this case did not want their money to be put at risk, and they did not
18 want to place a bet on Mr. Hansen's future business. But instead of using customer
19 money to purchase the customer's gold, Mr. Hansen did put that money at risk. He
20 immediately it to fulfill other obligations for the business or to pay himself. Then he
21 waited until more victims placed orders with NWTM. The victims' fortunes were tied—
22 without their knowledge or permission—to whether Mr. Hansen could recruit more
23 victims. The victims wanted gold and silver, and that is why many insisted on getting a
24 refund when Mr. Hansen could not deliver their goods. But as Mr. Hansen knew, but his
25 customers did not, the bullion customer money was long spent. These customers would
26 only get refunds if Mr. Hansen were able to push deadlines out and collect more orders to
27 keep his scheme going.
28

1 As for storage customers, Mr. Hansen talked them into *paying* NWTM to steal
 2 from them—forking over fees, sometimes thousands of dollars’ worth, to “securely” store
 3 their bullion at NWTM, only to have Defendants use the vault as a company piggy bank.
 4 Mr. Hansen collected those fees and delivered phony storage account statements in
 5 return. But unbeknownst to the storage customers, Mr. Hansen used the storage
 6 customers’ bullion as his own – pulling it off the shelf to fulfill other orders, at times
 7 even melting down customers’ property to make something else to ship somewhere else.

8 After years of Mr. Hansen’s deception to his customers, it is now possible to see
 9 the result of his crimes. That harm goes beyond the more than \$30 million dollars that
 10 were stolen. Stolen too were the plans and dreams the victims had for their savings –
 11 retirement, college funds, inheritances – those were also wiped out by Mr. Hansen.
 12 These are not faceless “victims” but real people with families and relationships, people
 13 whose futures were upended by Mr. Hansen’s theft, who lay awake at night and
 14 wondered how to navigate the altered paths his fraud left them. Sentencing for Mr.
 15 Hansen should reflect these personal, individual losses, felt in the hundreds of statements
 16 submitted and extrapolated to the thousands of others who remained silent.

17 As the very first victim statement puts it: “[T]hese convicted criminals, Hansen
 18 and Erdmann, didn’t just steal our money...they stole entire lifetimes of saving and
 19 investing, scrimping and cutting corners, doing without many of the ‘good things’ in life
 20 – travel, family vacations, better lives for our kids...They knowingly and callously took
 21 ALL of that.” VIS_001 (B.J & R.J.). So many others speak similarly and heartbreakingly
 22 of the lost work and lost time represented by their lost funds: VIS_139 (D.D.): “The
 23 money I lost due to the fraud of defendants was 10 years worth of savings.”; VIS_446
 24 (J.G.): noting the lost funds “took 3 years of my life to save”; VIS_557 (S.D.): “To me, it
 25 was 7 years of hard work, cutting costs, working extra on the weekends, and trying to get
 26 ahead for a little easier retirement.”; VIS_477 (W.F.): “The investment was to be an
 27 inherentency [sic] for my children. How, now, do I start over?”
 28

1 The mental anguish described is as devastating as the financial damage. *See e.g.*,
2 VIS_003 (B.B.): “I also had emotional injury...feelings of loss, trauma, despair, anxiety
3 and anger I felt because of my monetary loss.”; VIS_004 (P.M.): “My loss haunts
4 me...Almost every day I recalculate my finances...As I age how will I afford help with
5 daily living? How will I pay for assisted living or a nursing home?”; VIS_414 (R.H.):
6 “This crime has had far reaching consequences: anxiety, sleepless nights worrying about
7 recovery of our investment, emotional trauma, inability to help my 97-year-old father
8 financially, even marital discord.”; VIS_370-71 (S.V.): “I have had trouble paying bills,
9 affecting my credit, causing my anxiety which I am now taking medicine for...This has
10 made my life incredibly difficult”; VIS_377 (T.D.): “There have been many nights of no
11 sleep.”

12 Though each of these victims are unique, with their own ordeals and hardships,
13 common themes emerge from their statements: many are elderly, and speak of losing a
14 substantial portion of their savings or retirement (e.g. VIS_192, 213, 229, 461, 705).
15 Many write of the impact not on themselves, but on their children and their futures (e.g.
16 VIS_161, 181, 268, 276, 381, 388, 530); *see also* VIS_514 (S.C.): “I’d very much like
17 the defendants to know that they stole from children as they ran their ponzi scheme.”
18 Strained family and marital relations and guilt were common (e.g., VIS_182, 275, 280,
19 326, 516, 557, 559), as was a loss of trust (e.g., VIS_266, 279, 316, 473) and self-
20 confidence (e.g., VIS_275, 488, 522); *see also* VIS_565 (“Outside of my financial loss,
21 this has caused me doubt my own decision making and the integrity of anyone I do
22 business with. It’s terrible to have a general attitude of distrust...This type of criminal is
23 just as damaging as someone who inflicts physical harm, and possibly worse.” So many
24 unfairly blame themselves for falling victim to defendants’ scheme. *E.g.*, VIS_663
25 (C.F.): “In little more than a few months of my father's passing, I squandered this portion
26 of their accumulated love and sweat.”

27 These themes repeat across the hundreds of victim statements, and many victims,
28 like D.M., describe the devastation caused:

1 I had to take on extra jobs which kept me away from my family at night. It put a
 2 strain on my relationship...I have had to work several more years to make up for
 3 my loss. It caused a lot of stress in my life, sleepless nights, embarrassment,
 4 anger, arguments with love[d] ones... I missed family get togethers, vacations, my
 grandson's first steps, etc. ... It hurt not being there with them and it can't be
 replaced!

5 VIS 423-24 (D.M.). These are the stories of people who lost not just money, but time,
 6 health, and hope. VIS_386 (D.T.) "I am 65 and feel hopeless. We – my husband and I –
 7 are hard working people who were just trying to secure a safe way to make it in this
 8 world."

9 The amount of harm to these victims is staggering. The crime calls for a
 10 significant punishment.

11 **B. Ross Hansen's characteristics, particularly his lack of respect for the law,**
 12 **support a lengthy sentence.**

13 Mr. Hansen's lack of respect for the law also supports a 15-year sentence. Mr.
 14 Hansen signed and then intentionally violated the AGO Consent Decree. The 2008
 15 Consent Decree provided written guidelines as to how NWTM was supposed to do
 16 business. It required a specific *realistic* delivery date, a window to ship if the delivery
 17 date was missed, and then an immediate refund.

18 Mr. Hansen knew and understood the requirements of the Consent Decree but he
 19 refused to follow it. Former in-house counsel Cat Hopkins testified that she told Hansen
 20 he was violating the spirit of the Consent Decree.⁵ Former in-house attorney Greg
 21 Fullington testified that he told Hansen that he and NWTM were committing fraud. *See*
 22 *also* Trial Exhibit 11. Attorney Dino Vasquez testified that when he was hired to perform
 23 a so-called audit of NWTM's practices, he was not provided with information about
 24 whether NWTM was actually meeting delivery dates. Because of these warnings, Mr.
 25

26
 27
 28 ⁵ Cat Hopkins also told Mr. Hansen that he could be criminally liable for theft of customer-owned bullion.

1 Hansen cannot claim that he made a mistake or used a “flawed business model” but
 2 rather he was intentionally deceiving his customers.

3 The Court may also consider other examples of Ross Hansen’s lack of respect for
 4 the law. Mr. Hansen failed to file federal income taxes numerous times. Mr. Hansen
 5 caused an internet disparagement campaign to tamper with a lawsuit with a former
 6 landlord. PSR at ¶ 94. During the trial in this case, he tried to influence the testimony of
 7 a former NWTM employee witness on a break, while that witness was on the stand. *See*
 8 PSR at ¶ 50. These actions show someone who believes that the law and the rules of this
 9 Court do not apply to him. The sentence in this case should send a message that Mr.
 10 Hansen is not above the law.

11 Finally, Mr. Hansen has a criminal history. He was twice convicted for federal
 12 criminal offenses and served time in federal prison. Mr. Hansen knew the consequences
 13 of his criminal behavior and committed this offense anyway.

14 **C. Ross Hansen has no remorse for committing these offenses and the**
 15 **sentence must be sufficient to deter him and to protect the public.**

16 Mr. Hansen knew for years that he was cheating and deceiving customers but
 17 continued (even when explicitly warned to stop by Cat Hopkins and Greg Fullington).
 18 Instead, Mr. Hansen kept wrongfully taking new customer money until he decided to “get
 19 out of the bullion business” and filed bankruptcy. But Mr. Hansen’s plan was to maintain
 20 control of NWTM. When the bankruptcy court appointed a trustee, Mr. Hansen knew
 21 that his fraud was going to be discovered and so he fought to take over the company and
 22 directed Diane Erdmann to sell gold and silver to pay for his lawyers. *See* PSR at ¶ 46,
 23 Trial Exhibits 384-388. Mr. Hansen could have made efforts to assist in the recovery of
 24 the millions of dollars NWTM owed to thousands of customers. But rather than showing
 25 remorse, he fought and obstructed the Trustee, wasting NWTM resources, in a futile
 26 attempt to regain control of his company and to hide his crimes.

27 Similarly, as of the filing of this sentencing memo, Ross Hansen has not accepted
 28 any responsibility. The sentencing guidelines recognize the “legitimate societal interests”

1 in acceptance of responsibility. USSG § 3E1.1, cmt. Background. Mr. Hansen did not
 2 accept responsibility because he wanted to restart a bullion business and again take
 3 people's money. The sentence in this case must deter Mr. Hansen from this conduct.
 4 The sentence in this case must be long enough to protect the public from Mr. Hansen – so
 5 he cannot sell bullion, or assist others in selling bullion, or take any customer money or
 6 investments in any capacity.

7 **D. Ross Hansen must receive just punishment for his offense by receiving a**
 8 **sentence that is consistent with similarly situated defendants.**

9 This case – 3000 victims, \$30 million in loss, a defendant without remorse – needs
 10 a lengthy sentence to provide just punishment for the offense. The sentence in this case
 11 must demonstrate to the public that an extensive and intentional fraud will be met with an
 12 extensive punishment.

13 Further, a sentence of 15 years' imprisonment is appropriate because it is
 14 consistent with sentences imposed in other similar cases. The government is aware of
 15 several cases like this one – where the operator of a bullion business defrauds customers
 16 and/or falsely promises to safely store bullion for customers.

17 In *United States v. Larry Bates, et al.*, CR 17-6263-SHL (W.D. Tenn.) the
 18 defendant and others were convicted at trial of running a bullion business that diverted
 19 customer money to fund business expenses, personal expenses, and to fulfill prior orders.
 20 *United States v. Bates*, 784 Fed.Appx. 312, 322-23 (6th Cir. 2019). After trial, the court
 21 found that Larry Bates was responsible for \$21.6 million in loss and sentenced him to 262
 22 months' imprisonment. *Id.* at 333.

23 In *United States v. Galen Rust*, CR 19-164-TMR (D. Utah), Rust promised
 24 investors that their money would be used to buy and trade silver, that investors' funds
 25 would be used to buy actual silver, and that silver bullion purchased would be safely
 26 stored. Statement in Advance of Plea, Dkt. #134. However, Rust did not use investor
 27 funds as promised and had little stored silver and instead used the money on himself and
 28 to make payments to previous investors like a Ponzi scheme. After a plea, the court

1 sentenced Rust to 19 years' imprisonment and ordered Rust to repay \$153 million in
 2 restitution to hundreds of victims. <https://www.justice.gov/usao-ut/pr/owner-rust-rare-coin-sentenced-19-years-prison-running-fraudulent-silver-trading-program#:~:text=SALT%20LAKE%20CITY%20%E2%80%93%20Gaylen%20Dean,money%20laundering%2C%20and%20securities%20fraud.>
 3
 4
 5

6 In *United States v. Charles McAllister*, CR 18-16-LY (W.D. Tex.), defendant was
 7 convicted at trial of defrauding the customers of his bullion business. McAllister ran a
 8 company that offered bullion trading services and bullion storage services. The evidence
 9 at trial showed that McAllister deceived customers into believing that their bullion was
 10 stored in company vaults when it was not. See *United States v. McAllister*, 844
 11 Fed.Appx. 696, 697-98 (5th Cir. 2021). The court sentenced McAllister to ten years'
 12 imprisonment and ordered \$16 million in restitution.

13 In a similar case from this district, *United States v. Aaron Michael Scott*, CR 18-
 14 5500-RBL, defendant pleaded guilty to wire fraud. Scott operated Blue Moon Coins in
 15 Vancouver, Washington, a business that purchased and sold precious metals. Scott
 16 obtained customer money by falsely promising that it would be used to fulfill the
 17 customer's order; instead, that money was used to for his own purposes and to fulfill
 18 earlier customer orders where the money had already been spent. See CR 18-5500RBL,
 19 Dkt. #14 at 4-7. The Honorable Ronald B. Leighton sentenced Scott to 48 months'
 20 imprisonment and ordered him to pay \$1.3 million in restitution.⁶
 21

22 ⁶ The government is aware of other recent examples of fraudulent bullion business operators receiving
 23 significant sentences: In *United States v. Esposito, et al.*, CR 19-208-CEM (M.D. Fla.), defendants
 24 pleaded guilty to conspiring to defraud the customers of their bullion business by using customer money
 25 that was intended to purchase and hold bullion to pay business expenses and to fulfill prior orders. The
 26 defendants also provided their customers with false account statements. Defendants acknowledged that
 there were approximately 120 victims in the case at the loss was over \$5 million. Defendant Salvatore
 Esposito was sentenced to 87 months in prison and defendant Joseph Esposito was sentenced to 71
 months' imprisonment.

27 In *United States v. Hannes Tulving*, CR 15-115-MOC (W.D.N.C.) defendant pleaded guilty to an
 28 Information. Tulving admitted that he induced customers to place orders for gold and silver knowing
 those orders could not be fulfilled as promised. He admitted that his scheme had more than 380 victims
 and caused more than \$15 million in loss. The court considered Tulving's cooperation and Tulving's

Another comparison from this district is *United States v. Mark Spangler*, CR 12-133-RSM; Spangler was convicted at trial of a scheme to defraud investors; like this case, Spangler defrauded his customers and falsely promised investors that their money would be used for safe investments. The Honorable Ricardo S. Martinez sentenced Spangler to 16 years' imprisonment and ordered him to pay \$19.8 million in restitution.

Mr. Hansen's conduct was like that of these convicted felons – he used his knowledge of the precious metals industry to take in customer money and promised to use it as customers directed. But as the evidence at trial showed, he deceived customers and ultimately caused more than \$30 million in loss. To treat Mr. Hansen similarly to other defendants, a 15-year prison sentence is just punishment for this crime.

IV. GOVERNMENT'S RESPONSE TO PROBATION'S SENTENCING RECOMMENDATION

The government strongly disagrees with the seven-year sentence recommended by Probation. The government disagrees with how Probation recommendation applied multiple Section 3553(a) factors. The sentence, pursuant to Section 3553(a), must adequately recognize the nature of the offense, that is, long-term fraudulent conduct that caused more than \$30 million in loss to more than 3000 victims. The sentence in this case must recognize the seriousness of the harm – the devastating impact on those victims, as discussed above. The sentence in this case must also consider how Mr. Hansen's sentence compared to other similarly situated defendants, like the other bullion defendants, or other WDWA defendants.

Further, the government respectfully disagrees with the reduced recommendation because of concerns about Mr. Hansen's health, especially because these concerns are not supported by any evidence in the record but based on Mr. Hansen's own self-report. PSR at ¶ 100-101. This is particularly inappropriate given his conviction for a years-long

health as departures from the guidelines and sentenced Tulving to 30 months' imprisonment. Tulving Sentencing Transcript, CR 15-115-MOC at 6-7, 57-65, Dkt. #35.

scheme of lies and deceit. Needless to say, Mr. Hansen is not reliable, and his unverified claims deserve far more skepticism. At other places in the PSR, Mr. Hansen also made other self-reports about his early graduation from high school, his history flying planes for the government in South America, and his founding of NWTM in 1986. *See* PSR at ¶¶ 78-85. This information was not in Mr. Hansen's earlier PSR. Mr. Hansen did not provide a collateral contact for additional verification of the information in the PSR. PSR at ¶ 75. Mr. Hansen's unverified claims should not be the basis for a substantially lower sentence.

But even if Mr. Hansen has been diagnosed with medical conditions as claimed, the Probation office recognized that the Bureau of Prisons is equipped to handle these conditions. It is not grounds for a lower sentence.

V. RESTITUTION

Mr. Hansen should be ordered to pay restitution in the amount of \$33,744,166.92, to the victims listed in Sentencing Exhibit 601. Sealed Sentencing Exhibit 601. This exhibit lists all the various victims of Mr. Hansen's scheme – bullion customers, customers who requested refunds, storage customers, and others. The government will request that the Judgment adopt this \$33.7 million number and reference Exhibit 601.

The basis for Sentencing Exhibit 601 is summarized in Sentencing Exhibit 603. *See* Sealed Sentencing Exhibit 603. Exhibit 603 reflects the FBI's comprehensive review of the evidence supporting restitution in this case. As explained in Exhibit 603, the FBI reviewed several sources:

| Source | Description |
|--|--|
| Trial Exhibit 60 (admitted at trial) | Spreadsheet from NWTM Epicor system of delayed orders |
| Trial Exhibit 62 (marked but not admitted) | Spreadsheet from NWTM Epicor system of unfulfilled orders |
| Bankruptcy claims | Signed claims submitted by victims as part of 16-11767 bankruptcy case |

| | | |
|---|---------------------------------|--|
| 1 | Trial Exhibit 86 (admitted) | Bullion customer refund tracker |
| 2 | | |
| 3 | Trial Exhibit 493 (admitted) | Storage loss spreadsheet |
| 4 | | |
| 5 | Trial Exhibit 192 (admitted) | S.F. bullion exchange email ⁷ |
| 6 | | |
| 7 | Trial Exhibit 57 (admitted) | R.V. unpaid bullion purchase |
| 8 | | |

9
10 The government is prepared to present testimony from the FBI case agent at
11 sentencing, if necessary, to support its request for restitution as per Exhibit 601. The
12 spreadsheets marked as Exhibit 601 and 603, along with other backup spreadsheets, were
13 produced to the Probation Office and to defense counsel in September 2021. (Some
14 addresses in Exhibit 601 have been updated.)

15 Finally, Ross Hansen and Diane Erdmann should be jointly and severally liable for
16 the restitution amount in this case with the exception of the \$1.5 million to S.F.

17 **VI. MR. HANSEN SHOULD BE REMANDED.**

18 A person who has been found guilty of an offense and who is awaiting execution
19 of a sentence shall be detained unless there is clear and convincing evidence that the
20 person will not flee and will not pose a danger to the community. 18 U.S.C. §3143(a)(1).
21 Mr. Hansen should be remanded to begin serving his sentence. Mr. Hansen has not
22 accepted any responsibility for this offense and while out of custody he poses a risk of
23 flight and a danger to the community. Remand is appropriate here.

24 //

25 //

26
27
28 ⁷ Ms. Erdmann was acquitted of the count related to the S.F. bullion exchange.

1 **VII. CONCLUSION**

2 The government respectfully recommends that the Court sentence Ross Hansen to
3 15 years' imprisonment followed by three years of supervised release. The government
4 also requests that Mr. Hansen be ordered to pay \$33,744,166.92 in restitution.

5 Dated this 22nd day of April 2022.

6 Respectfully submitted,

7
8 NICHOLAS W. BROWN
United States Attorney

9 s/ Brian Werner

10 BRIAN WERNER
11 BENJAMIN DIGGS
Assistant United States Attorneys
12 700 Stewart Street, Suite 5220
13 Seattle, Washington 98101
14 Telephone: (206) 553-7970
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